



PUBLIC NOTICE

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Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

DA 02-2438
September 30, 2002

**COMMENTS REQUESTED ON THE APPLICATION
BY QWEST COMMUNICATIONS INTERNATIONAL, INC. FOR AUTHORIZATION
UNDER SECTION 271 OF THE COMMUNICATIONS ACT TO PROVIDE
IN-REGION, INTERLATA SERVICE IN THE STATES OF COLORADO, IDAHO, IOWA,
MONTANA, NEBRASKA, NORTH DAKOTA, UTAH, WASHINGTON AND WYOMING**

WC DOCKET NO. 02-314

On **September 30, 2002**, Qwest Communications International, Inc. (Qwest) filed a joint application for authorization to provide in-region, interLATA service in the states of Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington and Wyoming pursuant to section 271 of the Communications Act of 1934, as amended (the Act), 47 U.S.C. § 271. This Public Notice establishes certain procedural requirements relating to consideration of Qwest's application. The Commission, in a prior Public Notice, adopted general procedural requirements that apply to the processing of this and all other applications for authorization under section 271 of the Act.¹ A copy of this earlier Public Notice is attached hereto. Also attached is a Protective Order adopted today, Application by Qwest Communications, for Authorization To Provide In-Region, InterLATA Services in the states of **Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington, and Wyoming**. The multiple state Protective Order, **DA 02-2439** (WCB rel. **September 30, 2002**), establishes the conditions under which access will be made available to confidential documents submitted in this proceeding by Qwest or any other party.

As the Commission stated in its March 23, 2001 Public Notice, we retain discretion to adjust filing deadlines for these applications on a case-by-case basis. Because Qwest's instant application follows very closely in time to its recently withdrawn filing in WC Docket Nos. 02-148 and 02-189,

¹ See *Updated Filing Requirements for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, DA 01-734 (CCB rel. Mar. 23, 2001) (*Mar. 23, 2001 Public Notice*).

and this application relies largely on the same evidence that supported its previous application, we find it appropriate to adopt an expedited comment schedule.

Comments By Interested Third Parties. Comments by interested third parties in support of or in opposition to Qwest's application must be filed on or before **October 15, 2002**, and reply comments on or before **October 25, 2002**. Comments and reply comments must be filed in conformance with the procedures set forth in the attached *March 23, 2001 Public Notice* and the Commission's recent Public Notices applying to all filings (see DA 01-2430, DA 01-2436, DA 01-2451, DA 01-2919). Parties seeking to rely on any of their comments or *ex parte* filings filed in WC Docket Nos. 02-148 and 02-189 prior to the termination of those proceedings should incorporate by reference those portions of such materials relevant to this proceeding, but parties do not have to re-file such materials in their entirety. Any materials not expressly incorporated by the originating party may not be relied upon by the Commission. As in prior section 271 application proceedings, comments may not exceed 100 pages.²

Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file Comments on or before **October 15, 2002**. Reply comments on or before **October 25, 2002**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail,

² Parties anticipating that they may require additional pages for comments or reply comments are asked to contact Gary Remondino at (202) 418-2298 as soon as possible.

Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

Fifteen copies of each comment must be delivered to Janice Myles, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C327, Washington, D.C., 20554, and one copy to Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington D.C., 20554.³

Filings and comments are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

If you are sending copies of a type of document or using this delivery method...	It should be addressed for delivery to...
Hand-delivered or messenger-delivered paper filings for the Commission's Secretary	236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002 (8:00 a.m. to 7:00 p.m.)
Commercial overnight mail (other than United States Postal Service Express Mail and Priority Mail)	9300 East Hampton Drive, Capitol Heights, MD 20743 (8:00 a.m. to 5:30 p.m.)
United States Postal Service first-class mail, Express Mail, and Priority Mail	445 12 th Street, SW Washington, DC 20554

Parties are strongly encouraged also to file replies electronically using the Commission's Electronic Comment Filing System (ECFS). **Parties are also requested to send a courtesy copy of their comments and ex parte items via email to:** jmyles@fcc.gov, gremondi@fcc.gov, mcarowit@fcc.gov, ryan.harsch@usdoj.gov, jjewell@puc.state.id.us, penny.baker@iub.state.ia.us, cpost@mail.state.ne.us, pjf@oracle.psc.state.nd.us, bruce.smith@dora.state.co.us, svick@state.mt.us, jorchard@utah.gov, records@wutc.wa.gov, soxley@state.wy.us.

As stated and in accordance with the Commission's earlier Public Notice announcing that hand-delivered or messenger-delivered filings are no longer accepted at the Commission's headquarters, hand-delivered or messenger-delivered filings must be delivered to **236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002**.⁴ The filing hours at this location will be 8:00 a.m. to 7:00

³ See Public Notice, FCC Announces New Filing Location for Paper Documents, DA 01-2919 (rel. December 14, 2001).

⁴ *Id.*

p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

State Commissions, State Boards and Department of Justice Written Consultations. The State Commissions and State Boards must file any written consultation on or before **October 15, 2002**. Any written consultation by the U.S. Department of Justice, which by the Act's express terms must become part of the Commission's record, must be filed on or before **October 22, 2002**. Because the State Commissions, State Boards and the Department of Justice are given roles by statute in a section 271 proceeding, copies of all pleadings, including comments and *ex partes*, should be filed with those parties.⁵

Replies. Any participant in the proceeding – the applicant, interested third parties, the State Commissions, State Boards, and the Department of Justice – may file a reply to any comments filed by any other participant on or before **October 25, 2002**. Replies may not exceed 50 pages, unless parties request additional pages to address state-specific circumstances, as described above in footnote 2. An original and four copies of all reply comments must be filed with Marlene H. Dortch, Secretary, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., TW-B204, Washington D.C. 20554. In addition, fifteen copies of each reply must be delivered to Janice Myles, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C327, Washington, D.C., 20554, and one copy to Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington D.C., 20554. Hand-delivered or messenger-delivered filings will be accepted only at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002.⁶ As with comments, parties **are encouraged also to file replies electronically** using the Commission's Electronic Comment Filing System (ECFS). **Parties are also requested to send a courtesy copy of any replies via email to:** , jmyles@fcc.gov, gremondi@fcc.gov, mcarowit@fcc.gov, ryan.harsch@usdoj.gov, jjewell@puc.state.id.us, penny.baker@iub.state.ia.us, cpost@mail.state.ne.us, pjf@oracle.psc.state.nd.us, bruce.smith@dora.state.co.us, svick@state.mt.us, jorchard@utah.gov, records@wutc.wa.gov, soxley@state.wy.us

Treatment of Confidential Information. To the extent a submission by any party (including the applicant, the Department of Justice, and State Commissions) includes confidential information or comments on confidential information that another participant has submitted, the party must file with the Office of the Secretary: (a) one copy of only the portion(s) of the submission that contain confidential information or comment on confidential information that another participant has

⁵ Please forward copies to the attention of: 1) Bruce Smith, Colorado Public Utilities Commission, Logan Tower Office Level 2, 1580 Logan Street, Denver, CO 80203, (2) Jean Jewell, Commission Secretary, Idaho Public Utilities Commission, Post Office Box 83720, Boise, Idaho, 83702, (3) Penny Baker, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa, 50319-0069, (4) Chris Post, Nebraska Public Service Commission, 300 The Atrium, 1200 N Street, Lincoln, NE 68508, (5) Patrick J. Fahn, Chief Engineer, Public Utilities Division, North Dakota Public Service Commission, State Capitol, 600 East Boulevard, Dept 408, Bismarck, ND 58505-0480, (6) Steve Vick, Utility Division Administrator, Montana Public Service Commission, PO Box 202601, Helena, MT 59620, (7) Julie Orchard, Public Service Commission, Heber M. Wells Building Fourth Floor, 160 East 300 South, Salt Lake City, UT 84111, (8) WUTC Record Center, 1300 S. Evergreen Park Dr. S.W. Washington, P.O. Box 47250, Olympia, WA 98504-7250, (9) Stephen G. Oxley, Chief Counsel, Wyoming Public Service Commission, 2515 Warren Ave., Suite 300, Cheyenne, WY 82002, (10) Ryan Harsch, U.S. Department of Justice, Antitrust Division, Telecommunications and Media Enforcement Section, 1401 H St., N.W., Suite 8000, Washington, DC 20530.

⁶ See Public Notice, FCC Announces New in Filing Location for Paper Documents, DA 01-2919 (rel. Dec. 14, 2001).

submitted, exclusive of the remainder of the submission; and (b) one original and two copies of the entire confidential submission in redacted form. Each of the submissions described in items (a) and (b) must be accompanied by a cover letter. The submission described in item (a) and accompanying cover letter should be stamped “Confidential—Not for Public Inspection.” The original and two copies of the redacted submission described in item (b) and their accompanying cover letters should be stamped “Redacted—For Public Inspection.” The cover letters accompanying both sets of submissions set forth in items (a) and (b) above should state that the party is filing a confidential portion of the submission and a redacted version of the entire submission. Other than bearing different stamps (i.e., “Confidential—Not for Public Inspection” or “Redacted—For Public Inspection”), the (a) and (b) cover letters should be identical. The submissions should be sent to Marlene H. Dortch, Secretary, 445 12th Street, S.W., Room TW-B204. Hand-delivered or messenger-delivered filings will be accepted only at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. Six sets of the confidential and redacted submissions should also be sent to Gary Remondino, Wireline Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 5-C140, Washington, DC 20554. If the submission is a comment or reply, then fifteen copies of the public version must be sent to Janice Myles at the address listed above in paragraphs addressing comments and replies.

All questions relating to access to confidential information submitted by Qwest should be directed to: C. Jeffrey Tibbels, Hogan & Hartson, 555 13th Street, N.W., Washington D.C. 20004. Telephone (202) 637-6968, Fax: (202) 637-5910, cjtibbels@hhlaw.com.

Availability of Information. A wide range of information relating to Qwest’s multiple state section 271 application for Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington, and Wyoming may be retrieved from the Commission’s website at <http://www.fcc.gov>.⁷ Specific information, such as comments and *ex parte* submissions, may be obtained from the Electronic Comment Filing System (ECFS), which is accessible through the Commission’s website. Moreover, Qwest has voluntarily agreed to post several documents, including its application and supporting affidavits and substantive *ex parte* submissions, on the World Wide Web at: <http://www.qwest.com/policy/IdReentry/Fed271>.

The application will be available for public inspection during regular business hours in the Reference Information Center of the Federal Communications Commission, Room CY-A257, 445 12th Street, S.W., Washington, DC, 20554. Paper copies of the application, and the record generated in response thereto, may be obtained from the Commission’s copy contractor.

Ex Parte Rules - Permit-but-Disclose Proceeding. Because of the broad policy issues involved, section 271 application proceedings initially are classified as permit-but-disclose proceedings.⁸ Accordingly, *ex parte* presentations will be permitted, provided they are disclosed in conformance

⁷ The rules relating to public information and the inspection of records are set forth at sections 0.441 through 0.470 of the Commission’s Rules. 47 C.F.R. §§ 0.441-0.470.

⁸ See 47 C.F.R. § 1.1206(a)(13) (added by 64 FR 68946, 68946 (1999) (effective Jan. 10, 2000)); e.g., Comments Requested on Application by Bell Atlantic for Authorization under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York (CC Docket No. 99-295), Public Notice, DA 99-2014, 1999 WL 770903 (CCB rel. Sept. 29, 1999).

with the Commission's *ex parte* rules.⁹ Because of the 90-day statutory timeframe for decision, the Commission strongly encourages parties to set forth their views comprehensively in the formal filings specified above (*e.g.*, written consultations, oppositions, supporting comments, etc.) and not to rely on subsequent *ex parte* presentations. In any event, parties may file no more than a total of 20 pages of written *ex parte* submissions. This 20-page limit does not include: (1) written *ex parte* submissions made solely to disclose an oral *ex parte* contact; (2) written material submitted at the time of an oral presentation to Commission staff that provides a brief outline of the presentation; (3) written material filed in response to direct requests from Commission staff; or (4) written factual exhibits. *Ex parte* submissions in excess of the 20-page limit will not be considered part of the record of this proceeding. In light of the statutory deadline for decision, parties are hereby requested to provide courtesy copies of any *ex parte* presentations made to any member of the Commission to Gary Remondino, Wireline Competition Policy Division, Wireline Competition Bureau (WCB), Federal Communications Commission, 445 12th Street, S.W., Room 5-C140, Washington D.C. 20554.

Parties are also requested to send a courtesy copy of any *ex parte* submissions via email to: jmyles@fcc.gov, gremondi@fcc.gov, mcarowit@fcc.gov, ryan.harsch@usdoj.gov, jjewell@puc.state.id.us, penny.baker@iub.state.ia.us, cpost@mail.state.ne.us, pjf@oracle.psc.state.nd.us, bruce.smith@dora.state.co.us, svick@state.mt.us, jorchard@utah.gov, records@wutc.wa.gov, soxley@state.wy.us. In recognition of the burden placed on all parties by the 90-day statutory timeframe, Qwest has voluntarily agreed to post (within 24 hours of filing) a copy of each *ex parte* submission it files with the Commission in this docket at its website: <http://www.qwest.com/about/policy/IdReentry/Fed271>. Likewise, parties filing *ex parte* submissions are requested to provide Qwest with a copy of each *ex parte* submission within 24 hours by fax, messenger, or overnight delivery.¹⁰

For purposes of this proceeding, any oral *ex parte* presentations from the Department of Justice and of the State Commissions are deemed to be exempt *ex parte* presentations.¹¹ To the extent that the Commission obtains through such oral *ex parte* presentations new factual information on which the Commission may rely in its decision-making process, the party submitting the information – either the Department of Justice or the State Commissions– shall prepare a summary for inclusion in the record in accordance with Commission rules, unless such a summary is being prepared by Commission staff.¹² We also waive any page limits for written *ex parte* submissions by the Department of Justice or the State Commissions.

⁹ See 47 C.F.R. §§ 1.1202, 1.1206(b).

¹⁰ Copies of *ex parte* submissions delivered to Qwest shall be addressed to: Yaron Dori, Hogan & Hartson, 555 13th Street, N.W. Washington, D.C. Telephone (202) 637-5458, Fax (202) 637-5910.

¹¹ See *id.* § 1.1200(a) (“Where the public interest so requires in a particular proceeding, the Commission and its staff retain the discretion to modify the applicable *ex parte* rules by order, letter, or public notice.”); *id.* § 1204(a)(6), as amended by 64 FR 68946, 68946 (1999) (effective Jan. 10, 2000).

¹² See *id.* § 1.1206(a).

Notwithstanding the above, the Commission may, by subsequent public notice, prohibit all presentations to its decision-making personnel regarding the application during a seven-day period preceding the anticipated release date of the Commission's Order regarding the application.¹³

Ex Parte Meeting Schedule. The Wireline Competition Bureau (WCB) staff will be available for meetings on **October 9, 2002 and October 23, 2002**, in case interested parties wish to discuss any issues that they intend to raise in comments or reply comments, as applicable, in support of or in opposition to Qwest's application.

The purpose of these meetings is to give interested parties an opportunity to inform Bureau staff of such issues prior to filing their written comments or reply comments. The Bureau encourages interested parties to make joint presentations of common concerns to the extent feasible. Parties who wish to schedule meetings with the Bureau should call Michael Carowitz, at (202) 418-0026 or Gary Remondino, at (202) 418-2298 Competition Policy Division, Wireline Competition Bureau (WCB).

Aside from the meetings listed above, *ex parte* meetings related to this proceeding will occur only at the request of Bureau staff.

Calendar

Ex Parte Meetings related to Comments: October 9, 2002

Comments Due: October 15, 2002

State Commission Comments Due: October 15, 2002

U.S. Department of Justice Evaluation Due: October 22, 2002

Ex Parte Meetings related to Reply Comments: October 23, 2002

Reply Comments Due: October 25, 2002

Statutory Deadline: December 27, 2002

By the Wireline Competition Bureau.

News Media contact: Michael Balmoris -- (202) 418-1500

Wireline Competition Bureau contact: Michael Carowitz -- (202) 418-0026.

¹³ See *id.* §§ 1.1200, 1.1203.